GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Social Welfare Department – Appeal petition filed by Sri Sriramula Raju, S/o. Sriramula Saralamma, against the Proceedings Rc.No.C6/524/M/2013, dt:11.03.2014 of the District Collector, Kurnool under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993(AP Act No.16/1993) – Appeal Petition allowed – Orders - Issued.

SOCIAL WELFARE (CV.1) DEPARTMENT

G.O.MS.No. 92 Dated: 07-11-2017
Read the following:

1. Proceedings of the Dist. Collector, Kurnool, Rc.No.C6/524/M/2013, dt:11.03.2014.
2. Appeal Petition of Sri Sriramula Raju, S/o Sriramula Saralamma, Nandyala, Kurnool District, dt:21.04.2014.
3. Govt. Memo No.4914/CV.1/2014, dt: 02.05.2014.
4. Order of the Hon'ble High Court in W.P.No.20325/2014, dated 21.07.2014 filed by Sri Sriramula Raju.
5. From the District Collector Kurnool, Lr.No.C6/524/M/2013, dated 20.08.2014.
6. Govt. Memo No.4914/CV.1/2014, dt:01.06.2015, 18.11.2015, 28.04.2015 & 30.11.2016 .
7. Govt. Memo No.4914/CV.1/2014, dt:17.08.2017.
8. Written arguments filed by the appellant, before the Hon'ble M(SWE&TWE) on 16.09.2017.

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ORDER:

In the reference 1st read above, the District Collector, Kurnool has issued orders canceling the SC–Mala Caste Certificate obtained from the then Tahsildar, Nadyal on 2008 by Sri Sriramula Raju, S/o. Sriramula Saralamma .

2. In the reference 2nd read above, Sri Sriramula Raju, S/o. Sriramula Saralamma, has filed an Appeal Petition before the Government, against the said Proceedings of the District Collector, Kurnool. After examining the said Appeal Petition, Government have admitted the Appeal Petition and called for the parawise remarks and connected records from the District Collector, Kurnool, in the reference 3rd read above.

3. In the reference 4th read above, the Hon'ble High Court of A.P., Hyderabad while disposing the W.P.No.20325/2014 filed by Sri Sriramula Raju, S/o. Sriramula Saralamma, against the Government for not passing any orders in his appeal petition and proceedings dated 11.03.2014 of the District Collector, Kurnool, on 21.07.2017 has directed the Government to take up the petitioner's aforesaid appeal and pass appropriate orders in accordance with law, in the interlocutory application, preferably, within (4) weeks from the date of receipt of the order. But due to several administrative difficulties the matter could not be disposed off within the time limit as directed by the Hon'ble High Court in the said W.P. However, after giving notices from time to time to the Appellant through his Counsel the matter has been examined by the Appellate Authority.

4. In the reference 5th read above, the District Collector, Kurnool has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Sri Sriramula Raju, S/o. Sriramula Saralamma.

5. The said Appeal Petition has been posted for hearing on 22.08.2015, 28.11.2015, 14.05.2016, 24.12.2016 and finally on 16.09.2017 and the same has been informed to the Appellant and the Counsel for the Appellant in the references 6th & 7th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government.

[P.T.O]

6. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant / the parawise remarks submitted by the District Collector, Kurnool and proceedings of the District Collector, Kurnool , dated 11.03.2014, the Appellate Authority has observed that:

I. The appellant in his grounds has stated that his mother Sriramula Saralamma is belongs to SC-Mala community and she has married Shaik Abdul Hafeez, who belongs to Muslim, blessed with (3) children. At the time of (3) years old of the appellant, his mother lived separately from her husband along with the appellant and the appellant has never recognized as a son of Shaik Abdul Hafeez and the appellant and her mother were suffered with all humiliations and hazardness of being a member of Scheduled Caste Community and live in the fold of Scheduled Caste community.

II. The District Level Scrutiny Committee has observed that the appellant's mother Sriramula Saralamma herself admitted that she is a born S.C. (Mala) and after demise of her first husband by name Sri G. Bhaskar of S.C. Community, remarried one Sri Abdul Hafeez who is a Muslim individual and blessed with (3) children viz., Sri Mohd. Rafi (First son), Sri Khaleel Ahammad alias Sriramula Raju (Second son & Appellant) & Sri Mohd. Munna (Third son) and living with her second husband and they are following the Muslim religious rituals and customs and all the family members of the appellant are living under one roof. Further, the house hold white ration card bearing No.138408700039 issued in favour of Smt. Sriramula Saralamma W/o. Sri Abdul Hafeez is the positive proof that they are living jointly including the appellant with the family members. It is also confirmed by the family members, V.R.O., Noonepalli village and other elders of that locality that Sri Shaik Khaleel Rahim alias Sriramula Raju and his family members are following the Muslim religious customs and rituals. The physical verification report of the Tahsildar, Nandyal also revealed that the appellant did not suffering from the stigma of untouchability and discrimination in the society. Further, the appellant has failed to produce the adduce to the competent authority regarding the differences arose in between his father and mother and spent his childhood days away from his parents and grown up himself under the guardianship of maternal father is untenable. Therefore, the District Level Scrutiny Committee has recommended for cancellation of the "Mala(SC)" caste certificate.

III. Under section 6(3) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

IV. Further it is submitted that as per G.O.Ms.No.371 Employment and Social Welfare (B2) Department dated 13.04.1976 in Annexure-I at para-3 is as follows:

"In view of the above observations by Superior Courts, it can safely be concluded that the crucial test to determine is whether a child born out of such a wedlock has been accepted by the Scheduled Caste Community as a member of their community and has been brought up in that surrounding and in that community or not. The nexus between the child and the community or class or caste is a real test irrespective of the fact whether the accommodating class or caste or community is Scheduled Caste community or a caste Hindu community. Even if the mother of the child is a member of the Scheduled Caste community, it is possible that the child is accepted by the community of his father and brought up in the surroundings of his father's relations. In that case, such a child cannot be treated as a member of the Scheduled Caste community and cannot get

[Contd. on P.3]

any benefits as such. Similarly when the mother belongs to a higher caste and the father is a Scheduled Caste, the father may remain away from the Scheduled Caste community and the child may be brought up in a different surrounding under the influence of his mother's relations and her community members. In such cases, also, the child cannot be said to be a member of the Scheduled Caste community. In the alternative, where the child irrespective of the fact whether the father or the mother is a member of Scheduled Caste community, is brought up in the Scheduled Caste community as a member of such community, then he has to be treated as a member of the Scheduled Caste community and would be entitled to receive benefits as such".

V. The Appellate Authority is observed that during the course of arguments that the petitioner submitted that his mother had married a Muslim and they got three children during wedlock including the appellant and differences arose and leaving the company of husband by taking the appellant along with her while he was hardly three years old and live far away from her husband and admitted the appellant in a school and as the father name is actual name of her mother without showing name of his father and he had never recognized as son of his Muslim father and he was bought up in Schedule caste community with suffering of all the drawbacks of Schedule Caste Community. On verification of the arguments and the documents and the grounds of appeal and para wise remarks as well as the other documents and material available on the record it is noticed that other two children of her mother were left with the father and they have grown up with father and they were treated as Muslims and because they were Muslims it will not lead the appellant is also Muslim and does not belong to Schedule Caste Community as he was brought up by her mother who is Schedule Caste Community.

VI. The Appellate Authority is also observed that, as per the guidelines prevailing that the child should be born and brought up in the community fold for which they are claiming for reservation and the children of inter caste and inter religion married couple cannot automatically claim socially the claim of his parent and they shall be accepted by the community in which they are claiming. In the instant case the mother of the claimant belong to Schedule Caste Community and whereas the father belongs to Muslim religion and after the begot of the children they were separated and whereas the appellant brought up by her mother who is Schedule Caste Community since his childhood in the said community and further in the school record also shows that he brought up by her mother only without the name of his father and only with the name of his mother. The said factum indicates that the appellant born and brought up in the community fold for which he is claiming, it is further observed as per the record that the mother of the appellant is the Schedule Caste Community and the appellant is accepted by the Community of his mother and bought up by the mother of the community as such the appellant shall be treated as Schedule Caste Community and taking consideration of the above and the material available on the record that it can be concluded that the lower authority failed to observe the findings of the concerned above.

7. In view of the several reasons recorded in the paras supra and after taking consideration of the material available on the record and also after careful examination of the appeal petition, the Government in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), hereby allow the Appeal Petition filed by Sri Sriramula Raju, S/o. Sriramula Saralamma, by upholding his Scheduled Caste(Mala) claim and the Proceedings of the District Collector, Kurnool issued in the reference 1st read above are hereby accordingly set- aside.

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8. The District Collector, Kurnool is directed to take necessary consequential action in the matter.

9. The records (containing Rc.No.C6/524/M/2013, pages: CF 1 to 195) received from the District Collector, Kurnool through the reference 5th read above, are returned herewith in original to the District Collector, Kurnool and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, Kurnool.
(with original records) (BY RPAD)

Sri Sriramula Raju, S/o. Sriramula Saralamma,
R/o.H.No.25/362-B, Sanjeevanagar,
Nandyala, Kurnool District.

Sri K. Anantha Rao & Sri T. Chakravarthy, Advocates
H.No.16-2-705/1/13/1,
New Malakpet, Hyderabad–36.

Copy to:
The PS to M(SWE& TWE).
The PS to Principal Secretary(SW).

// FORWARDED:: BY ORDER //

SECTION OFFICER